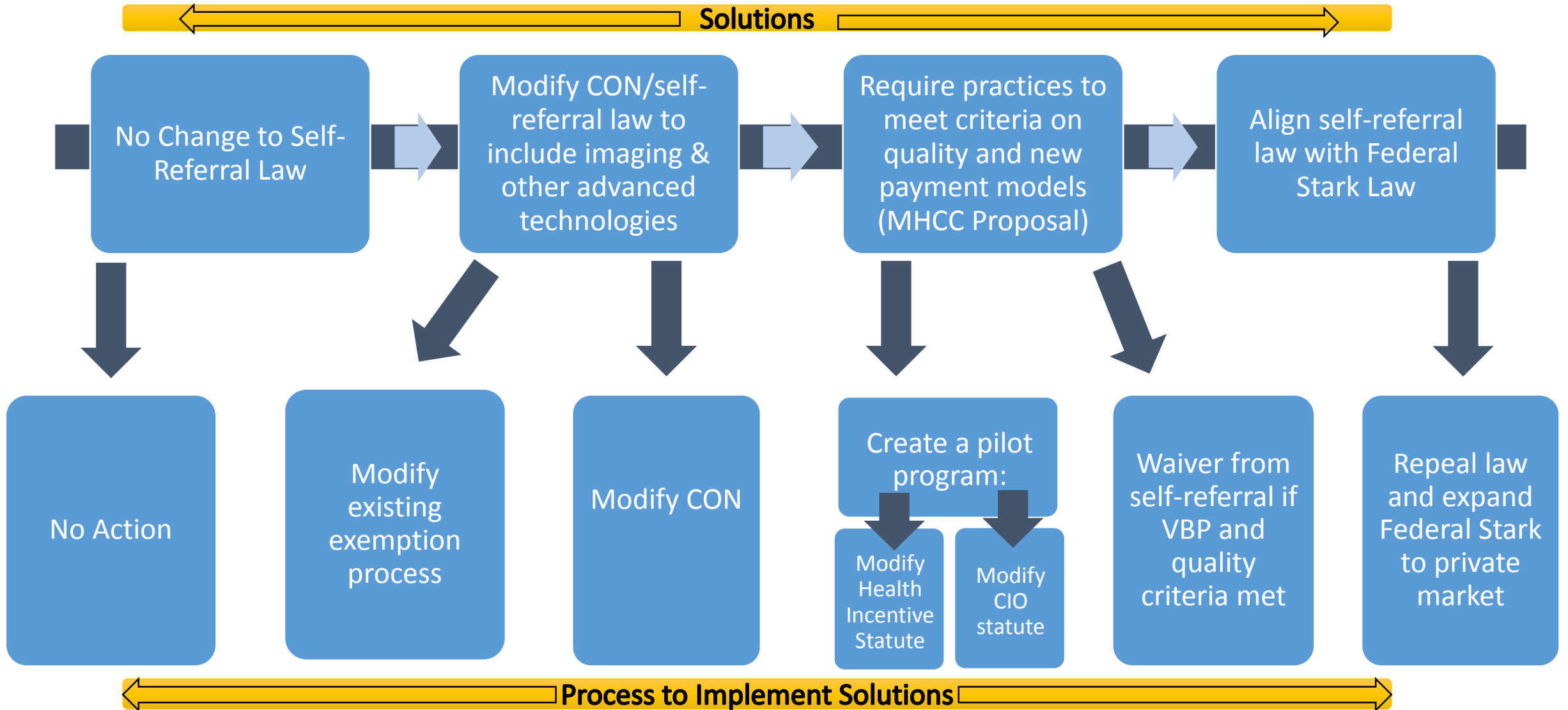


Maryland's Self Referral Law: Policy Options

October 7, 2015

Spectrum of Solutions



Options Available through Existing Regulatory Framework

- Option 1: Clarify Application of Maryland Patient Referral Law to Distributions from Value-Based Models, including Shared Savings Programs, Gainsharing, and Clinically Integrated Networks.
 - Seek individual guidance from respective licensing board to clarify application of law in cases where payment reform methods are going to be tested.

Options Available through Existing Regulatory Framework

- Option 2 – Adjust Exemption Process
- Lengthen Exemptions Available through Current Process
 - Current exemption linked to license renewal, in most cases 2-years.
 - 2 year timeframe is too short to justify investment in equipment, particularly large capital investments.
 - Option can be accomplished through regulatory change
- Expand MPRL exemption process to further define and test MHCC “value-based” criteria.

Options Which May Require Legislative Change

- Option 3: Permit Pilot Tests of Self-Referral Arrangements
- Selection of pilot practices could be based on;
 - Practices that address known access and need concerns;
 - Practices that appropriately integrate services delivered by hospitals and physicians, and/or;
 - Practices that can demonstrate significant scale.
- Pilot practices should be required to report on quality/performance.
- During this period, monitor federal government policy and implementation of phase 2 of the waiver.

Option 4: Allow Referrals Authorized by Financially Responsible Party

- Amend statute so that self-referral prohibitions will not apply where payor has authorized the provider to self-refer.
- Authorization from payor could be across-the-board, or case by case.

Option 5: Allow Referrals Authorized Under Value-Based Models

- Amend the statute so self-referral prohibitions will not apply in cases where;
 - The patient is covered by a recognized value-based model;
 - The organization holding the contract is financially responsible to absorb at least 50% of costs in excess of a specified target; or,
 - The organization holding the contract has authorized the physician to self-refer.
- Value-based arrangements could include Shared Savings Program, Gainsharing, Accountable Care Organizations, and Clinically Integrated Networks

Option 6: Amend the Maryland Physician Referral Law by adding an Exemption that any arrangement permitted under Stark is permitted, unless prohibited in the MPRL.

- Amend MPRL to outline specific exemptions in Stark that would be prohibited in Maryland.

Options with less consensus among stakeholders

- Option 7: Leave current Maryland Patient Referral Law unchanged
- Option 8: Add an exemption to the Maryland Patient Referral Law making any arrangement permitted in Stark are also permitted in Maryland
- Option 9: Repeal the current Maryland Patient Referral Law